

REMARKS

Claims 1-21, 25-27 and 31-33 are currently pending. By this amendment Claims 1, 18, 31, 32, and 33 have been amended.

Claims 1, 18, 31, 32, and 33 have been amended to insert the limitation “in absence of colchicines”. Support for this amendment can be found, at least, at page 2, lines 1-10 of the specification where Applicant describes the disadvantages of Genovesi et al., stating:

“U.S. Patent 5,445,961 (Genovesi et al.) discloses a method for embryogenesis of microspores using a pretreatment of sugar alcohol and cold (about 10EC) which also **requires colchicine, a chromosome doubling agent.**” (bold added);

and

“Transformation of microspores after treatment with a chromosome doubling agent would be less likely to result in homozygous transformants than if transformation were to occur prior to chromosome doubling”.

Claim 25 was inadvertently canceled in previous correspondence dated July 22, 2003. Claim 25 is reinserted as originally filed.

Claim rejections under 35 U.S.C. 112, second paragraph

In Item 2, the Examiner has rejected claims 26 and 27 for depending on canceled claim 25. Applicants submit that claim 25 was cancelled inadvertently in the Response dated July 22, 2003. As a result of re-introducing claim 25 back into the application the dependencies of claims 26 and 27 are restored and removal of Examiner’s rejections of claims 26 and 27 under 35 U.S.C. 112, second paragraph is respectfully requested.

Claim rejections under 35 U.S.C. 103(a)

In Item 3, the Examiner has rejected claims 1-14, 18-21 and 31-33 under 35 U.S.C. 103(a), alleging that these claims are obvious having regard to the combination of US 5,445,961 (Genovesi) and EP 0 455 597 (Kreuger).

Applicants maintain for reasons of record that Genovesi and Kreuger are not analogous art, that there is no motivation to combine the two references, and even if combined the two references do not render the present invention obvious.

However, Applicants have amended claims 1, 18, and 31-33 without acquiescing to Examiner’s rejection and solely for the purpose of expediting prosecution. Examiner indicates at page 3, paragraph 2 of the Office Action that limiting the claims with respect to colchicine would overcome the rejection.

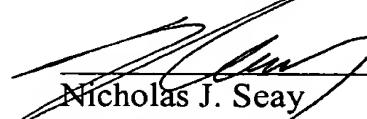
Applicants have amended each independent claim, Claims 1, 18, 31, 32, and 33, to insert the limitation “in absence of colchicine”. Support for this amendment may be found at least on page 2 lines 1-10. As stated in previous correspondence dated July 22, 2003, Genovesi discloses in Example 3, Table II (Col 22, lines 20-35) that greater than or about 0.025% colchicine is necessary for maintaining from about 50% to about 100% of microspores at a uninucleate stage of development. Applicants’ claimed combination of “pre-treatment conditions in absence of colchicine” and a temperature range of “from about 3°C to about 6°C” is surprising, inventive and provides an unexpected and significant benefit of being able “to maintain from about 50% to about 100% of microspores at a uninucleate stage of development” without the use of greater than or about 0.025% colchicine (a compound that is known to lead to developmental abnormalities and is toxic to microspores as acknowledged by Genovesi at Col 10, lines 64-67).

Therefore, it is submitted that independent claims 1, 18, 31, 32, and 33, and associated dependant claims, are not obvious having regard to Genovesi, alone or in combination with Kreuger, and withdrawal of Examiner’s rejection under 35 USC 103(a) is respectfully requested.

In Item 4, the Examiner has rejected dependent claims 13-17 under 35 U.S.C. 103(a) as being unpatentable over the combination of Genovesi, Kreuger, and Hu et al. As explained above Applicants have amended the independent claims of the present application. As claims 13-17 depend ultimately from claim 1, and as amended claim 1 is submitted to obviate the Examiner’s rejection Applicant respectfully requests withdrawal of Examiner’s rejection of dependent claims 13-17 under 35 U.S.C. 103(a).

It is respectfully submitted that the above-identified application is now in a condition for allowance and favorable reconsideration and prompt allowance of these claims are respectfully requested. Should the Examiner believe that anything further is desirable in order to place the application in better condition for allowance, the Examiner is invited to contact Applicants’ undersigned attorney at the telephone number listed below.

Respectfully submitted,


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